

**REMARKS**

The Office Action dated February 19, 2010 has been received and reviewed. This response, submitted along with a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. 1.137(b), is directed to that action.

At the outset, the Examiner's attention is brought to the fact that the undersigned is not currently an attorney of USPTO record. Upon the discovery of the abandonment of this application, the applicants desired to withdraw the power of attorney of record, and asked the undersigned to take over representation of this. A formal power of attorney authorizing the undersigned to act on behalf of the applicants is forthcoming.

Claims 1-3 have been amended in order to bring the claims into better form according to US practice. No new matter has been added.

The applicants respectfully request reconsideration in view of the foregoing amendments and the following remarks.

**Claim Rejections- 35 U.S.C. §103**

The Examiner rejected claims 1-3 under 35 U.S.C. §103(a) as obvious over Shults G.W., et al., (3,845,227) in view of Katayama et al. (US 5,939,112). The applicants respectfully traverse this rejection.

A *prima facie* case of obviousness cannot be established because the differences between the presently claimed invention and Shults are outside the level of ordinary skill in the art. In order to achieve the presently claimed invention from Shults, a skilled artisan would have to make several modifications that, when taken together, cannot be considered to be within the ordinary and obvious level of skill in the art.

The presently claimed invention differs from Shults and Katayama in several aspects. First, the prior art references fail to teach or suggest the claimed feature of cooling the meat to a temperature of 26°C after cooking the meat but before packaging the cooked meat in other bags suitable for vacuum packaging. As 26°C is significantly below the cooking temperature of 70°C to 85°C, but significantly above room temperature, this is a non-obvious feature of the invention that is not taught in the prior art.

Second, as acknowledged by the Examiner, Shults fails to teach the step of massaging the meat at reduced pressure and temperature for between 8-24 hours.

Third, Shults fails to teach the step of injecting the brine into the meat. Rather, Shults teaches soaking the meat in the brine and distributing the brine "thoroughly over the *surface areas* of the beef pieces", (col. 2, lines 63-64), clearly preferring that the brine not be distributed throughout the entire mass of beef.

Fourth, contrary to the Examiner's assertion, Shults fails to teach freezing the pieces of meat to a temperature of about -14°C. Shults does teach sterilizing the beef in hermetically sealed cans at low temperatures (-25°C), but there is no indication that the beef is frozen.

While Katayama does teach massaging beef pieces at low pressure and temperature and injecting a brine, but the teachings of Katayama remedy only two at least four deficiencies of Shults. A skilled artisan, even by excising two specific teachings from Katayama's disclosure and applying those modifications to Shults, *still* needs to make at least two independent modifications in order to achieve the present invention. Accordingly, the differences between the present invention and the prior art are outside

the level of ordinary skill in the art, and a *prima facie* case of obviousness cannot be established.

The applicants believe the claims are now in condition for allowance, and such favorable action is respectfully requested. If any issues remain, the resolution of which can be advanced through a telephone conference, the Examiner is invited to contact the applicant's attorney at the phone number listed below.

**CONDITIONAL PETITION FOR EXTENSION OF TIME**

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefor. The Assistant Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

**ADDITIONAL FEE**

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

Respectfully submitted,  
NORRIS McLAUGHLIN & MARCUS, P.A.

/Mark D. Marin /  
Mark D. Marin - Reg. No. 50,842  
875 Third Avenue - 8<sup>th</sup> Floor  
New York, New York 10022  
Phone: (212) 808-0700